

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ROSEMARY CLAUS SULLIVAN, et al.	§	
	§	
	§	
V.	§	A-14-CV-349-AWA
	§	
RCI DINING SERVICES (ROUND ROCK) INC.	§	
	§	

ORDER ON RULE 50 MOTION

This order is entered solely to memorialize the rulings that the undersigned made in open court on the Rule 50 motions. Rosemary Claus Sullivan and Aaron Brothers, as Independent Executor, sued RCI Dining Services (Round Rock) Inc. alleging claims for negligence, gross negligence, and a violation of the Texas Dram Shop Act. On October 2, 2017, the Court called the case for trial. At the close of the Plaintiffs' case, RCI moved pursuant to Rule 50 for entry of judgment in its favor on all of Plaintiffs' claims.

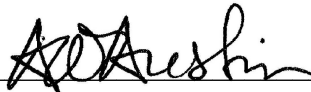
Under Rule 50, a court should render judgment as a matter of law when "a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue." FED. R. CIV. P. 50(a). As stated on the record, the Court **GRANTED** the Motion with regard to Plaintiffs' gross negligence claim, as it found, based on the evidence regarding the many offers RCI had made to provide Mr. Sullivan a ride, a ride home, and a ride to a nearby hotel, there was not sufficient evidence from which a reasonable jury could find in the Plaintiffs' favor on that claim.

With regard to Plaintiffs' negligence and Dram Shop Act claims, Court **DENIED** the Rule 50 motion, finding sufficient evidence for those claims to reach the jury, though the denial was without prejudice to those motions being reurged at the close of the evidence. The Court again

DENIED those motions when they were reurged at the close of the evidence, again subject to being reurged after verdict. The jury subsequently returned a verdict in RCI's favor on both of these claims.

The Court will enter judgment in this case in a separate order, consistent with these rulings and the jury's verdict.

SIGNED this 27th day of October, 2017.

A handwritten signature in black ink, appearing to read "A. Austin", is written over a horizontal line.

ANDREW W. AUSTIN
UNITED STATES MAGISTRATE JUDGE